

disclosure in the text above and on a separate sheet. Further, by separate letter to the official draftsperson, applicants submit formal drawings for the subject application.

The type of signal distribution and consumer response analysis described and claimed in the present application is fundamentally different from that described or suggested by the Eskin et al. reference. Applicants' distribution system uses the head end to produce a plurality of possibly different channel spectrums. Demographically selected connections between the selectively different channel spectrums at the head end and zones of the viewer community allow substitute channel presentation to some zones but not to others. In terms of Fig. 1 of the present application, the television channel signals may be different on distribution trunks 142, 143 and 144 so that viewers in zones labeled A may be receiving normal and substitute channels while the viewers in zones B may receive only normal channels (p.8, line 24). In this way no per-television set converters are needed, reducing the cost and complexity of the applicants' distribution system. Further, the claimed television distribution system, by performing substitution at the head end, permits channel substitutions for televisions which are connected directly to a distribution cable without the need for per-television converter boxes.

In contrast, the Eskin et al. system creates a single cable TV spectrum 14 which is distributed to all viewers of the community (Eskin et al., col.59, lines 12-17; col. 6, lines 3-7; Figs. 1, 2 and 3). This spectrum includes both normal and substitute channel signals. A converter 44 (Fig. 3) is associated with each television to select the particular channel to be displayed on the viewer's television. (Eskin et al., col. 10, line 62 through col. 7, line 5). The use of converter boxes to perform channel substitution adds expense and complexity to the system and results in a system in which "cable ready" televisions, which do not use a converter box, cannot be the subject of channel substitution. In brief summary, applicants' system distributes substitute channels by creating at the head end, multiple, possibly

different, copies of distribution spectrums and connects the spectrums to demographically selected zones of the community. The Eskin et al. system on the other hand creates a single spectrum which is distributed to all viewers and viewer channel selection is performed in a complicated and expensive converter at each television set.

Applicants' consumer response analysis also is fundamentally different than that proposed by Eskin et al. With the Eskin et al. system, panelists are selected from the community and provide information concerning themselves to the market researchers who issue panelist identification cards to the panelists (col.5, lines 54-58). When shopping, the panelists present their identification cards at the time of sale and analysis is performed based on items purchased versus the panelist identity (col. 6, lines 33-45). Since panelist identification is used, there is no attempt to gather information from stores which predominantly collect purchase information by consumers connected to the same distribution trunk but instead the cable viewing area is blanketed with panelist data collection equipment (col. 4, lines 17-24). Finally, consumer behavior in Eskin et al. is determined by comparing panelist identification with items purchased. No attention need be paid to which distribution trunk serves the zone of viewers who predominantly shop in the data collection point.

Applicants' system avoids the complexity of panelist selection and identification by distributing selected channel spectrums to different zones of the community and by collecting data from stores which predominantly serve a zone, i.e., are connected to a given distribution trunk. The consumers need not provide detailed information about themselves and need not carry or present panelist identification at the time of purchase. Thus applicants' system is simple and does not cause any effort on the part of the consumers.

Anticipation under 35 U.S.C. §102 is discussed at MPEP §2131, where it is stated (by judicial citation) that "A claim is anticipated only if each and every element as set

forth in the claim is found, either expressly or inherently described in a single prior art reference." The Eskin et al. reference does not set forth a plurality of receivers each connected to one of a plurality of distribution trunks, the signal distribution circuitry, the plurality of sales collection units or the market research computer as recited in applicants' claim 1. Accordingly, claim 1 is not anticipated by the Eskin et al. reference.

Claim 1 includes a plurality of television receivers each connected to one of a plurality of distribution trunks preselected so that the receivers of at least one trunk demographically represent the community. In contrast, Eskin et al. produces a single spectrum of channel signals which is applied to all receivers of the community via its trunk 14. Eskin et al. does not teach or suggest a plurality of trunks or the selective connection of receivers to those trunks for demographic representation. Such is not needed with Eskin et al., which provides common signals to all receivers and controls the individual receivers to select which will receive what signals. Applicants' connections are not inherent from Eskin et al., since individual connections are made unimportant by the addressability of the Eskin et al. set converter boxes.

Claim 1 recites signal distribution circuitry for combining received normal and substitute signals into spectrums of channels on a plurality of distribution trunks so that not all distribution trunks include the substitute program signal. As discussed, Eskin et al. creates only one spectrum of signals which is applied to all receivers via the single feed 14. This is so since program selection is done at the receiver rather than at the head end as claimed by applicants.

Eskin et al. may show a plurality of devices for collecting purchase data but they are not of the type claimed. As stated in claim 1, each sales collection unit is placed in a location to predominantly collect purchase information by consumers viewing receivers connected to the same distribution trunk, i.e., receiving the same signal spectrum. The location

of sales collection points in applicants' system is shown in Fig. 7 and described in detail from p.24, line 13 - p.25, line 35. Eskin et al. has no need for such location because it depends on panelist identification to associate consumers with television signals they may have viewed. Accordingly, Eskin et al. does not show or suggest this further part of claim 1.

Claim 1 also includes a market research computer including data for identifying the particular sales collection units associated with each distribution trunk. Such is not needed by the Eskin et al. reference which operates by signal distribution at the receivers and consumer identifications. That is, Eskin et al. has no possibly distinct distribution trunks and always knows about consumers without computer stored data since the panelists must present their identification at the time of purchase.

In view of the foregoing, applicants assert that claim 1 as amended is not anticipated by the Eskin et al. reference and is allowable as it now stands. Claim 2 is also asserted to be allowable due to its depending on allowable claim 1.

Claim 9 stands rejected as anticipated by Eskin et al. Claim 9, however, includes signal distribution circuitry, apparatus for connecting and a plurality of customer data collectors which are not shown or suggested by the Eskin et al. reference. Accordingly, claim 9 cannot be anticipated by Eskin et al.

The signal distribution circuitry of claim 9 combines substitute and normal channels into a plurality of spectrums which are connected to a plurality of distribution trunks so that the spectrum of channels on less than all the distribution trunks includes the substitute channel. As discussed above, such is not shown or suggested by Eskin et al.

The apparatus for connecting of claim 9 connects the distribution trunks to different substantially contiguous zones of the community. No such connection of trunks to contiguous zones is taught or suggested by Eskin et al. Instead, the same spectrum on a single trunk is connected to

all viewers in the cable community. Col. 6, lines 16-24, cited by the Examiner merely confirm that all receivers receive the same signals. Eskin et al., however, requires selection by the converter boxes to actually display substitute channels on the receiver.

As stated in claim 9, each customer purchase data collector represents purchases made by subscribers in one of the zones. No such representation is needed by Eskin et al. since it does not employ zones which receive different channel spectrums and each purchaser is identified by his/her panelist identification.

For the reasons stated above, applicants assert that claim 9 is allowable as it now stands. Claims 20 and 21, which depend from claim 9, are asserted to be allowable because of their dependence on claim 9 and claim 21 is further considered allowable because it includes a signal combiner for providing signals to each of the plurality of distribution trunks. Since only one distribution trunk is suggested by Eskin et al., that reference cannot show or suggest the plurality of signal combiners claimed. Eskin et al. simply does not suggest more than one combiner.

Claim 22, which stands rejected under U.S.C. §102, has been amended to clarify that the zones are substantially geographically continuous and that the step of presenting programming occurs after the performance of the data storing step. The concept of substantially geographically continuous zones is not shown or suggested by Eskin et al. As discussed above, contiguous zones are taught away from since the particular signals presented to viewers are selected by the converter boxes and the viewers receiving a substitute signal may occur at random (geographically) throughout the community.

Further, nothing in Eskin et al. shows or suggests the storage in a computer system of data representing associations between consumer parameters and zones prior to the presentation of the surveyed programming. First, the concept of zones as claimed is not suggested by Eskin et al. Second, if, as the Examiner states, this step is met when the panelist ID is scanned, it occurs after the presentation of

the programming and does not suggest or teach the claimed step. Such formation of associations in response to the panelist identification is the basis of the Eskin et al. system but is not employed by applicants' system.

In view of the foregoing, applicants assert that claim 22 is allowable as amended.

Claims 3-8, 10-13, 18-19 and 23-25 are rejected under 35 U.S.C. §103 as being unpatentable over Eskin et al. In the following discussion the claims are dealt with in the order in which the Examiner presents them.

Claims 3 and 4 are asserted to be allowable due to their dependence from claims 1 and 2 which are asserted above to be allowable. Additionally, claim 4 recites that each sales collection unit is located in a store shopped predominantly by consumers from one of the geographic groups of consumers. Eskin et al. does not make such location of sales collection units obvious because such is not needed by Eskin et al., which relies on panelist identities to do its analysis. The claimed location of collection units would in fact be counterproductive for Eskin et al. because Eskin et al. changes the viewers which see the substitute programming on a case-by-case basis and relocating data collection points for each new presentation would be impossible.

Claims 5-8 are rejected by stating that they are method claims of claim 1 and are rejected on the basis set forth regarding claim 1. Applicants assert that claims 5-8 are allowable for reasons set forth with regard to claim 1 and throughout the present response.

The Examiner rejects claim 10 by again stating that it would be obvious to place data collectors in a store a majority of whose purchasers are in one of the zones. This is simply not correct in view of Eskin et al. which has the ability to change at will the viewer mix of those who receive substitute versus normal channels. Without the concept of substantially fixed zones as taught only by applicants and not even suggested by Eskin et al., one cannot hope to locate a new set of stores for each mix of viewers.

Claims 11, 12 and 13 are asserted to be allowable for the reasons set forth regarding their base claim 9. Also, claims 23, 24 and 25 are asserted to be allowable for the reasons set forth regarding their base claim 22.

Claims 18 and 19 are believed to be allowable due to their dependence on claim 9. Further, Eskin et al. clearly suggests only a single spectrum of channels which is presented to all viewers. Accordingly, the apparatus recited in claims 18 and 19 to produce multiple spectrums which, for test purposes, will be different cannot be obvious in view of Eskin et al.

Claims 14-19 stand rejected under 35 U.S.C. §103 as unpatentable over Eskin et al. in view of Oberle et al. U.S. Patent No. 5,389,964. Claims 14-19 all depend from claim 9 and are believed allowable for the reasons discussed regarding that claim. Claims 14-19 all recite specific elements which in combination inventively implement the system of claim 9. Nothing in any of the references suggests the recited combinations and Eskin et al., which uses such a different program presentation and analysis philosophy, teaches away from the recited combination. Accordingly, claims 14-19 are further asserted to be non-obvious over the recited combination.

In view of the foregoing it is asserted that all claims 1-25 are allowable as they now stand.

Respectfully submitted,

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